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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,765	07/01/2003	Leonard R. Sokola SR.	SOK-101US	2171
31344	7590	04/20/2006	EXAMINER CASTELLANO, STEPHEN J	
RATNERPRESTIA P.O. BOX 1596 WILMINGTON, DE 19899			ART UNIT 3727	PAPER NUMBER

DATE MAILED: 04/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/611,765	<b>Applicant(s)</b> SOKOLA, LEONARD R.	
	<b>Examiner</b> Stephen J. Castellano	<b>Art Unit</b> 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 June 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 6,8,9,14,15 and 21-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,7,10-13 and 16-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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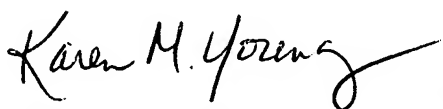
The application is reopened under 37 CFR 1.198 for the purpose of entering a new rejection as set forth in MPEP 1214.04 for the following reason: New references have been brought to light which indicate nonpatentability of the appealed claims.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Director has approved of reopening prosecution by signing below:



Karen M. Young.

**KAREN YOUNG**  
**DIRECTOR**  
**TECHNOLOGY CENTER 3700**

Applicant's election without traverse of the specie of Group III: Fig. 4, claims 1-5, 7, 10-13 and 16-20 in the reply filed on August 18, 2004 is acknowledged.

Claims 6, 8, 9, 14, 15 and 21-23 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected specie, there being no allowable

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generic or linking claim. Election was made **without** traverse in the reply filed on August 18, 2004.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the likeness being affixed to the upper surface, lower surface and edge of a shallow container as stated in claim 9, the likeness resembles a walrus, hippopotamus, whale, imaginary creature or an obese person as stated in claims 14 and 15, the motivational message as part of a graphical diet reminder as stated in claim 21 and the hollow statuette of a pig removably affixed to the border section, the statuette having a bottom and a removable top as stated in claim 23 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Note that claim 23 mixes elements of the Fig. 3 embodiment wherein the statuette is removably affixed and elements of the Fig. 4 embodiment wherein the statuette has a bottom and a removable top. All the elements of claim 23 are taught, just not in one embodiment or specie.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claims 2, 9, 14, 15, 21 and 23 are objected to because the various features of these claims as discussed above are not shown in a drawing. No new matter should be entered.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-5, 7, 10-13, 16, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buj in view of Strandberg, Frucher and Brenkus et al. (Brenkus).

Buj discloses a dinnerware article (plate and eating utensils) adapted to receive food, comprising: a shallow container (plate or dish), a raised likeness of a creature (statuette of dolphin 2 as well as the statuettes of a dolphin 5, 8 on the handle of the spoon 3 and fork 6, respectively) affixed to the upper surface. Buj lacks an adequate showing of a graphical diet reminder. Strandberg teaches a graphical diet reminder consisting of (1) the words “NUTRITION PLATE” and “HEALTHY EATERS,” and (2) a centrally located food triangle/pyramid with graphical representations of different food groups (breads, grains and starches in the bottom row, fruits and vegetables in the middle row, and eggs, fish and meat in the top portion). Strandberg’s disclosure is particularly directed to infants, toddlers and young children because of the animated representation of the food items. Frucher teaches a passover Seder plate having a graphical diet reminder (branches of grapes as well as various words representing a Seder diet, i.e., bitter herbs, shankbone, parsley, lettuce, charoses and egg). Brenkus teaches a diet method and apparatus comprising a compartmented plate and meal cards representing the various sized portions and which list the various food choices and defines a graphical diet reminder of meal cards used on a compartmented diet plate. It would have been obvious to add either of the graphical diet reminder teachings of Sandberg, Frucher or Brenkus to Buj’s dinnerware to provide education about nutrition when combining with Sandberg’s nutrition plate, to provide education about religion as well as good nutrition when combining with

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Frucher's Seder plate and to provide education as well as proper food portions when combining with Brenkus.

Re claim 16, Buj discloses the invention except for the resemblance of a pig. It would have been obvious to modify the type of creature resembled (such as a pig) as a matter of design choice and as a matter of little criticality since the application teaches a wide variety of different animals.


Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buj in view of Strandberg, Frucher and Brenkus and further in view of Gruneisen, III (Gruneisen).

The combination discloses the invention except for the likeness being hollow. Gruneisen teaches a container that resembles a basketball that is hollow and has a bottom and a removable top. It would have been obvious to modify the likeness of the dolphin to be hollow and have a bottom and a removable top as motivated by the reduced weight and access to a separate compartment that can provide storage adjacent to the shallow container.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535. The examiner can normally be reached on Tu-F 6:30-5.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Stephen J. Castellano  
Primary Examiner  
Art Unit 3727

sjc